

## **REMARKS**

### **Introductory Remarks**

As a preliminary matter, applicant respectfully traverses the Examiner's requirement for filing a terminal disclaimer under 37 C.F.R. § 1.321(b) to overcome the provisional obviousness-type double patenting rejection based on copending application Serial No. 10/141,322. Applicant submits that the claims in the subject application are patentably distinct from the claims in application Serial No. 10/141,322. The obviousness-type provisional double patenting rejection cannot be sustained because the claims of the subject patent application are not merely obvious variations of the claims of application Serial No. 10/141,322.

For example, all independent claims in the subject application recite a ribbon cartridge and some form of housing for the cartridge and as such, is directed to a type of replaceable "package" for a thermal transfer printer. Independent claim 1 further adds structure internal to the housing, such as the clutch, while independent claim 24 adds structure, such as the clutch and the restraining structure.

On the other hand, the claims of application Serial No. 10/141,322 are directed to a consumable web roll without any recitation of the housing. Specifically, independent claims 15 and 49 of application Serial No. 10/141,322 are directed to the consumable web roll, while independent claims 36, 51, and 53 are directed to the complete printer apparatus. Applicant asserts that the ribbon cartridge of the subject application would not be obvious in light of the consumable web roll or the printer apparatus of application Serial No. 10/141,322, and vise-versa. Applicant respectfully requests that the provisional double patenting rejection be removed.

Reconsideration and further examination of the subject patent application in light of the

present Amendment and Remarks is respectfully requested.

Introductory Remarks Regarding The Claims

Claims 1-14, 23-30, 34, 35, and 37 are currently pending in the application. Claims 5-11, 12-14, 31-33, and 37 have been canceled by this amendment.

Rejection Under 35 U.S.C. §102

Claims 1, 4, 8, 11, 23-27, 34 and 35 stand rejected under 35 U.S.C. §102(b) as being anticipated by Hamisch. In view of the claims as presently amended, applicant respectfully traverses this rejection.

Applicant's claimed invention, as recited in independent claims 1 and 23, is directed to a ribbon cartridge having a resilient structure coupled to an inner surface of the hollow core. The resilient structure is able to store energy in the form of torsional energy as the core rotates, up to its maximum deformable limit. When the ribbon is released or backfed, the resilient structure releases the stored torsional energy and retracts the slack ribbon. The element of a resilient structure frictionally coupled to an inner surface of the core is completely missing in Hamisch.

Hamisch is directed to a complex ink ribbon cartridge of the type believed to be used in line or chain printers. A wide ribbon is provided on a cylindrical structure, which rotates within the cartridge to present a different inked area to the print head. Hamisch does include a sleeve member 144 formed of resilient material having a outer surface 145 in frictional contact with the inner surface 146 of the core C1 (Col. 5, lines 63-65; Col. 6, lines 9-10). This causes "a breaking force or drag to be applied to the core C1 to maintain tension on the ink ribbon IR." (Col. 6, lines 12-14).

However, the Hamisch printer is totally devoid of any teaching or disclosure of a resilient structure configured to store energy such that when the ribbon is released or backfed, the resilient

structure causes retraction of the slack portion of the ribbon. The sleeve member 144 is merely a small cylindrical plug of closed-cell foam material (Col. 5, lines 64-66), and would not have the inherent capability to store torsional energy and produce ribbon retraction upon release of the ribbon. It merely causes drag against the surface that it touches.

A resilient structure configured to store energy is not mentioned at all in Hamisch nor do any of the drawings indicate this type of structure. Accordingly, this structure is completely missing in Hamisch. Because at least one significant element of applicant's claimed invention is missing from the device in Hamisch, Hamisch cannot anticipate applicant's claimed invention. Accordingly, applicant asserts that independent claims 1 and 24 are allowable over Hamisch, and that claims depending from claims 1 and 24 respectively, are allowable as depending from allowable base claims.

Applicant respectfully notes that anticipation focuses on whether a claim reads on the product or process that a prior art reference discloses, not on what the reference broadly "teaches." Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983). As the Examiner is aware, each and every element of a claim must be shown in the "four corners" of the reference. "To anticipate a claim, a reference must disclose every element of the challenged claim and enable one skilled in the art to make the anticipating subject matter." PPG Industries v. Guardian Industries, 75 F.3d 1558, 37 U.S.P.Q.2d 1618 (Fed. Cir. 1996).

#### Rejection Under 35 U.S.C. §103

Claims 2, 3, 9, 10, and 28 stand rejected under 35 U.S.C. §103 as being unpatentable over Hamisch in view of McTaggart. In view of the claims as presently amended, applicant respectfully traverses this rejection.

Applicant reasserts the above argument concerning Hamisch in traversing the Examiner's rejection regarding the combination of Hamisch and McTaggart. In the present case, none of the references, taken either individually or in combination, suggest applicant's claimed apparatus.

The Examiner asserts that the combination of Hamisch and McTaggart render obvious applicant's invention as recited in independent claims 2-3 and 28. (Claims 9 and 10 have been cancelled). Dependent claims 2, 3 and 28 recite that the clutch or resilient structure is formed of an elastomeric material, and by definition of a dependent claim, necessarily also recites a resilient structure configured to store and release torsional energy to facilitate the retraction of the ribbon when the ribbon is released or backfed.

As discussed above, Hamisch does not teach or disclose any resilient structure configured to store and release torsional energy to facilitate the retraction of the ribbon when the ribbon is released or backfed. Nor does McTaggart teach this. What McTaggart does teach is a rubber ball in a paper towel dispenser that when compressed, imposed drag on a paper roll core. Like Hamisch, McTaggart does not teach or disclose any structure configured to store and release torsional energy. As shown in Fig. 3 of McTaggart, the rubber ball is flattened to some degree by the pressure applied. There is certainly no torsional energy stored and subsequently released to take up slack on any structure whatsoever.

Accordingly, McTaggart does not provide any missing element that when combined with the device in Hamisch would provide applicant's claimed invention. Hamisch is missing at least the element of a resilient structure configured to store energy and release that energy to retract a ribbon when the ribbon is released or back fed. McTaggart is also missing this element. Thus, McTaggart adds nothing to the combination. There is no combination of Hamisch and McTaggart what would

have the ability to store torsional energy so that its release would retract a ribbon or web. Combining Hamisch and McTaggart, both of which only disclose structure that produces drag, and neither of which disclose storing/releasing torsional energy, cannot and does not provide applicant's claimed invention. Accordingly, applicant asserts that dependent claims 2, 3, and 28 are allowable over the combination of Hamisch and McTaggart.

Closing Remarks

The art made of record by the Examiner but not relied upon as a basis of rejection, does not, whether taken alone or in combination with Hamisch and McTaggart, anticipate or render obvious any of applicant's claims as now amended in the application.

For the foregoing reasons, applicant submits that the subject application is in condition for allowance and earnestly solicits an early Notice of Allowance. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, the Examiner is respectfully requested to call the undersigned at the below-listed number.

The Commissioner is hereby authorized to charge any additional fee which may be required for this application under 37 C.F.R. §§ 1.16-1.18, including but not limited to the issue fee, or credit any overpayment, to Deposit Account No. 23-0920. Should no proper amount be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal, or

even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 23-0920.

Respectfully submitted,

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March 15, 2005

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